

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION
Water Branch

RESOLUTION NO. W-4580
January 12, 2006

RESOLUTION

(RES. W-4580), FRUITRIDGE VISTA WATER COMPANY. (Fruitridge Vista). ORDER VACATING ORDERING PARAGRAPH NO. 3 OF RESOLUTION W-4513.

SUMMARY

By Advice Letter (AL) No. 78, filed on July 13, 2005, Fruitridge Vista seeks to modify Commission Resolution (Res.) W-4513, dated December 16, 2004, with respect to the filing of a General Rate Case (GRC) and approval for a Health & Safety Code Section 116367(f) loan.

Fruitridge Vista, in AL No. 78, did not provide the Commission with the specific language requested for the modification. After further investigation and evaluation, the Water Division is recommending that Ordering Paragraph (O.P.) No. 3 of Res. W-4513 be vacated, thus eliminating the requirements for the filing of a GRC by a certain date and approval of the Health & Safety Code Section 116367(f) loan by June 16, 2005.

This resolution adopts the Water Division's recommendation and vacates O.P. No. 3 of Res. W-4513. This resolution also orders Fruitridge Vista to notify the Water Division of the conclusion of its litigation proceedings and to work with the Water Division in developing a time table for filing a GRC and loan approval. The notification shall occur within 14 days of the conclusion of the litigation proceedings.

BACKGROUND

Fruitridge Vista currently serves approximately 4,107 flat-rate and 685 metered-rate customers in and around the unincorporated Fruitridge Vista Units, Sandra Heights, Pacific Terrace Units, and Bowling Green subdivisions in the southerly limits of City of Sacramento, Sacramento County.

In the late 1990's Fruitridge Vista experienced Methyl Tertiary Butyl Ether (MTBE) contamination of its well water sources due to leaking underground field storage tanks of oil companies. It was following this contamination that Fruitridge Vista applied for a

Department of Health Services (DHS) loan which was used for additional wells and pipeline improvements. Fruitridge Vista contends that the agreement of the loan requires Fruitridge Vista to aggressively pursue reimbursement for damages and that repayment of the loan would be dependent upon the outcome of the pursuit. Fruitridge Vista indicates that it filed suit in May 2001 against the oil companies seeking compensation for damages to the well water sources and that a court date of April 16, 2006 has been set for litigation proceedings. The proceedings are expected to last for approximately 8 months.

Fruitridge Vista present rates became effective on November 22, 2005, pursuant to Res. W-4564, dated October 27, 2005, which authorized recovery of the DHS fees of \$10,793, or 0.99%, for the period October 1, 2004 through March 21, 2005. Fruitridge Vista was granted a GRC increase of \$297,080, or 29.19%, for Test Year 2000 by Res. No. W-4252, dated June 14, 2001. Res. W-4252 also authorized a 3.4% CPI increase of \$44,700 for the year 2001.

Prior to the fee recovery in 2005, Fruitridge Vista filed for and received recovery of the DHS fees and purchased power offset expenses for 2002 through 2005 (see Res. W-4329, W-4379, W-4447, W-4513, and W-4564).

In Res. W-4513, dated December 16, 2004, the Commission ordered Fruitridge Vista to file a GRC and file for approval of the Health & Safety Code Section 116367(f) loan (O.P. No. 3). As discussed in Res. W-4513, Fruitridge Vista was operating at a loss in 2003 because "their overall expenses since the last general rate case has increased \$274,806 with significant increases in purchased power, contract work, transportation, office salaries, management salaries, pensions and benefits, professional services, and insurance." Because of this loss, the Commission determined that Fruitridge Vista should file a GRC. In addition, the Commission noted that Fruitridge Vista had never filed under Public Utilities Code 8818 for approval of the Health & Safety Code Section 116367(f) loan. O.P. No. 3 of Res. W-4513 stated:

Within 180 days from the effective date of this resolution, Fruitridge Vista Water Company shall file for general rate case and approval of the Health & Safety Code Section 116367(f) loan.

On June 7, 2005, Fruitridge Vista requested, in accordance with Rule 48(b) of the Commission's Rules of Practice and Procedure, an extension of time for complying with O.P. No. 3. By letter dated June 9, the extension was granted and a new compliance date was set for December 16, 2005.

On June 30, 2005, Fruitridge Vista filed AL No. 78 seeking to modify Res. W-4513 with respect to the filing of a GRC and approval for the Health & Safety Code Section

116367(f) loan. Upon further investigation by the Water Division, it was found that Fruitridge Vista requests to modify O.P. No. 3 to postpone the filing deadline until after the MTBE litigation proceedings have concluded.

On October 7, 2005, Fruitridge Vista filed A.05-10-005 requesting authorization for a service connection moratorium and clarification of Fruitridge Vista's tariff Rule No. 15 with respect to payment for new facilities servicing new applicants. Several formal complaints have been filed against Fruitridge Vista (C.05-09-011, C.05-09-012, C.05-09-027, C.05-10-011, and C.05-10-007) for refusal of service, refusal to accept water from the City of Sacramento, and inability to provide adequate water pressure to ensure effective fire protection. An Administrative Law Judge ruling has been issued which consolidates the formal complaints under A.05-10-005.

NOTICE AND PROTESTS

Notice of the requested modifications was sent to California American Utilities, an adjacent water utility. No letters objecting to the modifications have been received by the Water Division. No protests have been received by the Water Division.

DISCUSSION

The Water Division has received four billing complaints and one informal service complaint against Fruitridge Vista during the last twelve months. All billing complaints have been resolved. There are currently five formal complaints filed against Fruitridge Vista and are being handled under A. 05-10-005.

The DHS has indicated that a recent compliance order has been issued against Fruitridge Vista for pressure issues.

The standard filing cycle for a GRC filing is once every three years, or, if the need is greater, the utility may file once a year. Had Fruitridge Vista remained on the standard filing cycle, it would have filed a request in early 2004, if not sooner. Instead, Fruitridge Vista has chosen to file for recovery of only the DHS fees and increased purchased power expenses.

Fruitridge Vista states that it does not have sufficient money or staff to handle both the MTBE litigation proceeding as well as a GRC filing. In support of this, Fruitridge Vista states that it is not over earning and its accountant inadvertently included non-utility expenses in the annual reports since 2001 and that revised annual reports have been submitted to the Water Division which shows a profit before non-utility expenses are taken into consideration. Water Division examined the revised annual reports. Since annual reports are un-audited, the Water Division cannot conclusively confirm Fruitridge Vista's statement without an audit being performed. Fruitridge Vista also

states that the approval of the Health & Safety Code Section 116367(f) loan would be inappropriate until after conclusion of the litigation proceedings.

At the time AL No. 78 was filed, Fruitridge Vista was not faced with a formal application and five formal complaints. So, the dilemma facing this Commission in this case is a two-edged sword. On one hand the Commission must ensure that a water utility has adequate funds so that it may provide adequate service to its customers, which can be accomplished with regular GRC filings. On the other hand the Commission does not want to place a utility's operations in jeopardy by over extending its resources by requiring Fruitridge Vista to file a GRC and a request for loan approval prior to the conclusion of the MTBE litigation proceedings.

Because the conclusion date of the MTBE litigation proceedings is not certain, the Commission cannot place an exact filing deadline for the GRC filing and the request for loan approval.

Under these circumstances, the Water Division recommends that O.P. No. 3 be vacated from Res. W-4315. The filing deadline requirement of Res. No. W-4315 (O.P. No. 3) is vacated, and we shall require that Fruitridge Vista notify the Water Division of the conclusion of the MTBE litigation proceedings. At that time, Fruitridge Vista shall work with the Water Division in developing a time table for filing a GRC and a request for approval of Health & Safety Code Section 116367(f) loan. Fruitridge Vista shall notify the Water Division, in writing, within 14 days of the conclusion of the MTBE litigation proceedings.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311 (g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS

1. In the late 1990's Fruitridge Vista Water Company experienced MTBE contamination of its well water sources.
2. Fruitridge Vista Water Company received a Department of Health Services Health & Safety Code Section 116367(f) loan as a result of the MTBE contamination.
3. Fruitridge Vista Water Company has filed a lawsuit against polluters.
4. MTBE litigation proceedings are set to commence on April 16, 2006 and are expected to last for approximately 8 months.

5. The repayment of the Department of Health Services Health & Safety Code Section 116367(f) loan is dependent upon the outcome of the MTBE litigation proceedings.
6. Fruitridge Vista Water Company was granted a General Rate Case increase for Test Year 2000 and a 3.4% CPI increase for year 2001 by Resolution No. W-4252, dated March 15, 2001.
7. Fruitridge Vista Water Company has not filed for a General Rate Case increase since that granted by Resolution No. W-4252.
8. Fruitridge Vista Water Company has filed for and received recovery of the Department of Health Services fees and purchased power offset expenses from 2002 through 2005.
9. Resolution W-4513, dated December 16, 2004, ordered Fruitridge Vista Water Company to file a General Rate Case and file for approval of the Department of Health Services Health & Safety Code Section 116367(f) loan by June 16, 2005.
10. Fruitridge Vista Water Company was granted an extension of time for complying with Resolution W-4513. The new compliance date was set for December 16, 2005.
11. Fruitridge Vista Water Company has filed A.05-10-005 requesting authorization for a service connection moratorium and clarification of Fruitridge Vista's tariff Rule No. 15.
12. Several formal complaints have been filed against Fruitridge Vista (C.05-09-011, C.05-09-012, C.05-09-027, C.05-10-011, and C.05-10-007) for refusal of service, refusal to accept water from the City of Sacramento, and inability to provide adequate water pressure to ensure effective fire protection. An Administrative Law Judge ruling has been issued which consolidates the formal complaints under A.05-10-005.
13. Fruitridge Vista Water Company requests to modify Ordering Paragraph No. 3 of Resolution No. W-4513 by postponing the filing deadline until after the MTBE litigation proceedings have concluded.
14. No protests have been received against this filing.
15. Four billing complaints, one informal service complaint, and five formal complaints have been filed against Fruitridge Vista Water Company during the last twelve months.
16. A recent Department of Health Services compliance order has been issued to Fruitridge Vista Water Company for pressure issues.
17. Had Fruitridge Vista Water Company remained on the standard general rate case filing cycle, it would have filed a request in early 2004, if not sooner.
18. If the Commission were to require Fruitridge Vista Water Company to file a General Rate Case and for approval of the Health & Safety Code Section 116367(f) loan prior

to the conclusion of the MTBE litigation proceedings it might be putting Fruitridge Vista Water Company in jeopardy.

19. The vacating of Ordering Paragraph No. 3 of Resolution W-4513 is reasonable.
20. The conclusion date of the MTBE litigation proceedings is uncertain, which makes it difficult for the Commission to set an exact date for a Fruitridge Vista filing a General Rate Case.
21. Fruitridge Vista Water Company's notification of the Water Division, in writing, of the conclusion of the MTBE litigation should occur within 14 days of the conclusion of the proceedings.
22. Fruitridge Vista Water Company should work with the Water Division on a time table for filing a General Rate Case and approval of the Health & Safety Code Section 116367(f) loan at the conclusion of the MTBE litigation proceedings.

THEREFORE IT IS ORDERED THAT:

1. Ordering Paragraph No. 3 of Resolution W-4513 is vacated.
2. Fruitridge Vista Water Company shall notify the Water Division, in writing, of the conclusion of the MTBE litigation proceedings. Notification shall occur within 14 days of the conclusion of the proceedings
3. Fruitridge Vista Water Company shall work with the Water Division on a time table for filing a General Rate Case and shall present a status report on the Department of Health Services Health & Safety Code Section 116367(f) loan at the conclusion of the MTBE litigation proceedings.
4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 12, 2006; the following Commissioners approved it:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN

Resolution W-4580
Fruitridge Vista/AL 78/SNR/PTL/LTR:jlj

January 12, 2006

DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners